

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

EUGENE SCALIA, Secretary of Labor,
United States Department of Labor,¹

Plaintiff,

v.

LA CARRETA-DERRY, INC., d/b/a LA
CARRETA MEXICAN RESTAURANT; LA
CARRETA-LONDONDERRY, LLC d/b/a LA
CARRETA MEXICAN RESTAURANT; and
HERIBERTO LEON,

Defendants.

Civil Action No. 1:20-cv-01185-PB

SECRETARY OF LABOR’S MOTION FOR SUMMARY JUDGMENT

Defendants La carreta-Derry, Inc. d/b/a La Carreta Mexican Restaurant, La Carreta-Londonderry, LLC d/b/a La Carreta Mexican Restaurant and Heriberto Leon (collectively, “Defendants”) have admitted that they did not pay their employees the required minimum wage and overtime premium, and failed to maintain accurate records of employees’ wages and hours worked. The undisputed facts therefore demonstrate that Defendants violated the minimum wage, overtime, and recordkeeping provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the “FLSA”), and Plaintiff Secretary of Labor, United States Department of Labor (the “Secretary”), is entitled to judgment as a matter of law on Defendants’ violations of the FLSA.

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Secretary of Labor Martin J. Walsh is automatically substituted as the proper Plaintiff in this case. For ease of reference, the Secretary and his pertinent predecessors will be referred to herein as the “Secretary” or “Plaintiff.”

In addition to summary judgment on Defendants' violations of the FLSA, the undisputed facts establish that the Secretary also is entitled to summary judgment on: (1) the amount of minimum wage back wages Defendants owe their employees, which totals \$270,939.89; (2) the amount of overtime back wages Defendants owe their employees, which totals \$226,862.55; (3) Defendants' liability for \$497,802.44 in liquidated damages, which is an amount equal to the minimum wage and overtime back wages due; and (4) the willful nature of Defendants' violations of the FLSA. In addition, the Secretary respectfully requests that the Court enter a permanent injunction restraining Defendants from violating the FLSA in the future.

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Date: February 1, 2022

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the CM/ECF system on February 1, 2022, shall be sent electronically to all registered participants as identified on the Notice of Electronic Filing.

/s/ Mark A. Pedulla
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